

United States District Court
Western District of Wisconsin
Robert W. Kastenmeier Courthouse
120 North Henry Street, Room 560
Madison, Wisconsin 53703

Chambers of
James D. Peterson
Chief District Judge

Telephone
608-264-5504

August 6, 2021

Senator Mary Felzkowski
Senator Van Wanggaard
Senator Jerry Petrowski
Senator Howard Marklein
Representative Samba Baldeh
Representative Calvin Callahan
Representative Michael Schraa

Representative Patrick Snyder
Representative Jeff Mursau
Representative John Spiros
Representative Ron Tusler
Representative Cabral-Guevara
Representative Paul Tittl
Representative Janel Brandtjen

Re: Invitation to Tour Lincoln Hills and Copper Lake Schools

Dear Senators and Representatives:

Thank you for your invitation to tour the Lincoln Hills and Copper Lake schools.

I try to keep well informed about Wisconsin's correctional institutions because the United States District Court for the Western District of Wisconsin hears hundreds of cases every year involving allegations of civil rights violations in our prisons. I try to arrange periodic visits to Wisconsin prisons so that I can see the facilities first-hand and talk with the wardens and prison staff about prison operations. Our discussions, of course, never touch on active cases. We've had to suspend our prison visits because of the COVID pandemic, but I'll pick up on this effort when it's practical again.

I am particularly interested in the state of affairs at the Lincoln Hills and Copper Lake schools because of the *J.J. v. Litscher* litigation. I entered a preliminary injunction to address serious and persistent constitutional violations involving the excessive use of solitary confinement, pepper spray, and mechanical restraints. The case concluded with a consent decree that was negotiated by the parties and I retain jurisdiction to enforce it. The consent decree requires an independent monitor (jointly approved by the parties) to visit the facilities at least twice a year and file a report of each visit with the court. The reports are thorough, reflecting input from both staff and youth at the facilities, as well as from counsel for both sides.

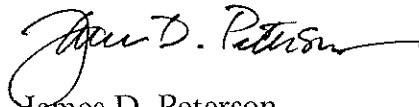
I am aware of the concerns of the staff and their union, which were voiced to me throughout the litigation. I made clear from the beginning that staff safety was a crucial consideration in any resolution. Those same concerns are discussed in the most recent

report filed July 26, 2021, and I continue to take them seriously. The second half of 2020 was a difficult period at the facilities, but the most recent report reflects some improvement. That report, like the previous ones, contains specific recommendations to address staff concerns.

Despite my interest, I must decline your invitation to visit the facilities and talk directly to staff. I cannot conduct my own fact-gathering outside the scope of the litigation and without the knowledge and input of counsel for the parties. The consent decree itself provides for its termination when the agreed-upon objectives are met, and counsel for either side may seek a modification of the decree if circumstances require it.

As far as correctional institutions go, my job as a federal judge is limited to enforcing constitutionally required minimum standards. But you, as legislators, can achieve more. I would encourage you to consider whether Lincoln Hills and Copper Lake continue to serve the interests of the people of Wisconsin now that less than 60 youths are there. Thank you again for your invitation, and thank you particularly for your interest in improving our state's correctional institutions.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Peterson", with a stylized flourish at the end.

James D. Peterson
Chief District Judge

JDP:skv

cc: Representative Thomas Tiffany
docket in *J.J. v. Litscher*, Case No. 17-cv-47-jdp